IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 14057 of 1994

Between:

Smt.G.Bharatha Lakshmi, W/o. Late G.Eswar Chand.
C-5, Irrum Manzil Colony, Hyderabad.

..... PETITIONER

AND

1 Govt. of A.P., Rep. Secretary.
General Administration (Accom.C) Dept., Secretariat Buildings,
Hyderabad.
2 Secretary to State Legislature, Assembly Buildings,
A.P., Hyderabad.
3 Estate Officer, Hyderabad & Secunderabad.
Khairtabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of mandamus declaring the action of the respondents in collecting 10% of the emoluments towards rent from the petitioner for C-type quarter allotted to her at Irrum Manzil Colony without fixing the standard rent as illegal and arbitrary and consequentially to direct the respondents to fix the standard rent for C-type quarters at Irrum Manzil Colony, Hyderabad and pending such fixation the respondents may be directed to collect the standard rent on par with similarly situated I.C. type quarters at Irrum Manzil Colony which is only Rs. 53/- per month.

Counsel for the Petitioner: MR.K.ANANDA RAO

Counsel for the Respondents: GP FOR GENERAL ADMINISTRATION DEPARTMENT

The Court made the following :

ORAL ORDER :

This Writ Petition is filed seeking a declaration that the action of the respondents in collecting 10% of the emoluments towards rent from the petitioner for C-type quarter allotted to her as arbitrary and illegal.

The petitioner was allotted Quarter No.C-5 at Errum Manzil Colony. The said quarter is one of the quarters constructed by the Government in the year 1990. As per the allotment order dated 25-10-1993, the said quarter was allotted to the petitioner subject to payment of rent at the rate of 10% of emoluments or standard rent whichever is less besides foregoing the full H.R.A. and H.R.A. of other family members if they are in Government service. The grievance of the petitioner is that for similarly situated quarters which were constructed earlier and which are called as IC-type quarters at Errum Manzil Colony, the standard rent was fixed at Rs.58/-. It is stated that in fact the carpet area of IC-type quarter is more than the present C-type quarter allotted to the petitioner and the amenities provided to the IC-type quarters

are not available to the occupants of C-type quarters. It is the case of the petitioner that the old IC-type quarters are much superior in all respects when compared with the quarter that is allotted to the petitioner. According to the petitioner, if the H.R.A. which the petitioner is foregoing is also taken into consideration, the petitioner is incurring about Rs.577-50 ps every month. It is contended that the action of the respondents in collecting different rents for similarly situated employees for similarly situated quarters is discriminatory. It is also contended that all the employees of a particular grade or grades who are eligible for allotment of IC-type quarters or C-type quarters form one class and when the standard rent was already fixed for IC-type quarters there is absolutely no justifiable reason for the failure on the part of the respondents to fix the standard rent for C-type quarters. In the circumstances, this Writ Petition is filed seeking a declaration that the action of the respondents in not fixing the standard rent and in collecting 10% of the emoluments towards rent was arbitrary and illegal.

This Court while issuing Rule Nisi, in W.P.M.P.No.17217 of 1994 granted interim direction on 12-08-1994 directing the respondents to collect the rent from the petitioner on par with similarly situated old IC-type quarters at Errum Manzil Colony, Hyderabad.

In spite of service of notice, the respondents did not choose to file any counter-affidavit. The interim order granted in the year 1994 is still in operation.

Having heard the learned Counsel for the parties and on a perusal of the material on record, it is clear that the entire challenge in the writ petition is based on the allegation that IC-type quarter is much superior to the C-type quarter which is allotted to the petitioner and that the respondents without there being any justifiable reason failed to fix the standard rent for the C-type quarter in occupation of the petitioner and erroneously collecting higher rent from her. Though the respondents failed to file the counter-affidavit in the absence of any material to substantiate the plea of the petitioner, it would not be appropriate for this Court in exercise of writ jurisdiction to record any finding with regard to the facilities available to the quarter in occupation of the petitioner and to adjudicate whether the rent being collected

from the petitioner is higher side when compared to IC-type quarters. However, I am of the view that it is a fit case where a direction should be issued to the appropriate authorities to consider the claim of the petitioner for fixation of the standard rent after making necessary enquiry as to the facilities available to the two types of quarters in question.

Accordingly, the Writ Petition is disposed of granting liberty to the petitioner to make a representation before the third respondent furnishing all the relevant material to substantiate her claim regarding fixation of the standard rent for C-type quarters on or before 31-07-2004. On such representation being made by the petitioner, the third respondent shall consider and pass appropriate orders in accordance with law within a period of eight weeks thereafter. Keeping in view that the interim order dated 12-08-1994, by virtue of which the petitioner has been paying the rent on par with the persons in occupation of IC-type quarters at Errum Manzil Colony for the past 10 years, I am of the view that it would be appropriate to continue the same till the representation of the petitioner is disposed of. Accordingly, there shall be a further direction to the respondents to collect the rent from the petitioner on par with the similarly situated IC-type quarters at Errum Manzil colony, Hyderabad till the representation of the petitioner is disposed of.

The Writ Petition is accordingly disposed of. There shall be no order as to costs.

24th June, 2004.

Gbs

Note:- Furnish C.C. in 3 days.

(B/O)

gbs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Govt. of A.P.,
General Administration (Accom.C) Dept., Secretariat Buildings,
Hyderabad.
2 Secretary to State Legislature, Assembly Buildings,
A.P., Hyderabad.
3 Estate Officer, Hyderabad & Secunderabad.
Khairtabad, Hyderabad.

4.2CCs to G. P. for General Administration Department, High Court Bldgs, High Court of A.P., Hyderabad.

5.2CD copies